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| 10/611,656 | 06/30/2003 | Philip T. Mellinger | 020375-029210US | 1992 |

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| EXAMINER |
|---|
| ZIA, SYED |

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| 2431 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>20 May 2009</u>.

2a)☒ This action is **FINAL**.  2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION


This office action is in response to amendments and remarks filed on May 20, 2009.

Claims 1-24 are pending.


### *Response to Arguments*

Applicant's arguments filed on May 20, 2009 have been fully considered but they are not

persuasive because of the following reasons:

Applicants argued regarding independent Claims 1, 7, 15, and 11 and stated that the cited

Lineman et al. (U. S. Publication No.: 2003/0065942) teaches *"the disclosed software enables a*

*security administrator to create and edit a security policy document (block 70), and this is*

*different from the recitations of claims 1, 12, and 21"*.

This is not found persuasive. The system of cited prior art provides a security policy

management method that involves creating security policy document and automatically

distributing it to users to verify their degree of compliance with policy The method also provides

a running a policy management program on a computer connected with a network to enable

creation of a security policy document and enabling the users to view the created document.  The

method then involves receiving electronic data relevant to the user compliance with the security

policy using policy management program ([0036-0039, and 0078-0096]).

As a result, the system of cited prior art does implement and teaches a risk assessments

regarding the security of information maintained by entities on shared networks.

Applicants <u>clearly</u> have failed to explicitly identify specific claim limitations, which

would define a patentable distinction over prior arts.

The examiner will not interpret to read narrowly the claim language to read exactly from

the specification, but will interpret the claim language in the broadest reasonable interpretation in

view of the specification. Therefore, the examiner asserts that the system of cited prior arts does

teach or suggest the subject matter broadly recited in independent Claims and subsequent

dependent Claims. Accordingly, rejections for claims 1-24 are respectfully maintained.


### *Claim Rejections - 35 USC § 101*

1.      Applicant amended the claims, previous rejection under 35 U.S.C. 101 has been

withdrawn.


### *Claim Rejections - 35 USC § 102*

1.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.


2.      Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Lineman et al.

(U. S. Publication No.: 2003/0065942).

3.      Regarding Claim 1, Lineman teaches and describes a method for implementing a security

risk assessment for a merchant entity having connectivity to a shared network, the method

comprising: receiving at a host computer system including a processor , from each of a plurality

of payment-processing organizations, a set of security requirements defining protocols for

implementing commercial transactions over the shared network using instruments identified with

the payment-processing organization; developing , with the processor at the computer system a

security test scheme having a set of test requirements whose satisfaction by the merchant entity

is sufficient to ensure compliance with the sets of security requirements defined by each of the

plurality of payment-processing organizations; and performing a remote scan of a network site

maintained by the merchant entity on the shared network in support of shared-network

commercial transactions with a security compliance authority server by the computer system, the

remote scan implementing at least a subset of the set of test requirements to evaluate compliance

by the merchant entity ([0036-0039, and 0078-0096]).


4.      Regarding Claim 12, Lineman teaches and describes a method for assessing a security

risk for a merchant entity having connectivity to a shared network, the method comprising:

receiving, a host computer system including a processor information describing characteristics of

the merchant entity from the merchant entity; determining a host computer system including the

processor which test requirements of a security test scheme to use in assessing the security risk

for the merchant entity, wherein the security test scheme includes a set of test requirements

whose satisfaction by the merchant entity is sufficient to ensure compliance with a plurality of

sets of security requirements defined by a plurality of payment-processing organizations; and

executing the security test scheme with a security compliance authority server in accordance
with the determined test requirements ([0036-0039, and 0078-0096]).


5.      Regarding Claim 21, Lineman teaches and describes a computer-readable storage
medium having a computer-readable program embodied therein for direction operation of a
security compliance authority server including a communications system, a processor, and a
storage device, wherein the computer-readable program includes instructions for operating the
security compliance authority server to assess a security risk for an merchant entity having
connectivity to a shared network in accordance with the following: receiving, with the
communications system, information describing characteristics of the merchant entity;
determining, with the processor, which test requirements of a security test scheme to use in
assessing the security risk for the merchant entity, wherein the security test scheme is stored on
the storage device and includes a set of test requirements whose satisfaction by the merchant
entity is sufficient to ensure compliance with a plurality of sets of security requirements defined
by a plurality of payment-processing organizations; and executing, with the processor, the
security test scheme in accordance with the determined test requirements ([0036-0039, and 0078-
0096]).


6.      Claims 2-11, 13-20, and 22-24 are rejected applied as above rejecting Claims 1, 12, and
21. Furthermore, Lineman teach and describe a method and apparatus for establishing a security
policy wherein:

As per Claim 2, further comprising transmitting a questionnaire to the merchant entity
with the security compliance authority server, the questionnaire including queries whose truthful
response identifies a level of compliance with at least some of the test requirements ([0084-
0086]).

As per Claim 3, further comprising scheduling an on-site audit at the merchant entity
with the security compliance authority server, the on-site audit being structured to follow a
prescribed methodology for identifying a level of compliance with at least some of the test
requirements ([0084-0088]).

As per Claim 4, a satisfaction level of the test requirements required for compliance with
the test requirements is dependent on a characteristic of the merchant entity ([0087-0091]).

As per Claim 5, the characteristic comprises a shared-network transaction volume
processed by the merchant entity over the shared network ([0090]).

As per Claim 6, a frequency of performing the remote scan is dependent on a
characteristic of the merchant entity ([0093-0094]).

As per Claim 7, the characteristic comprises a shared-network transaction volume
processed by the merchant entity over the shared network ([0090]).

As per Claim 8, further comprising receiving information describing characteristics of the
merchant entity from the merchant entity at trhe host computer system to limit parameters of the
remote scan ([0092-0094]).

As per Claim 9, further comprising generating a report  at the host computer system
summarizing a level of compliance by the merchant entity with the set of test requirements as
determined from performing the remote scan ([0083-0096]).

As per Claim 10, the merchant entity comprises an Internet merchant ([0025-0029]).

As per Claim 11. The method recited in claim 1 wherein the merchant entity comprises an Internet merchant gateway ([0025-0029]).

As per Claim 13, executing the security test scheme comprises performing a remote scan of a network site maintained by the merchant entity on the shared network in support of shared-network commercial transactions with the security compliance authority server ([0078-0088]).

As per Claim 14, executing the security test scheme comprises scheduling an on-site audit at the merchant entity with the security compliance authority server, the on-site audit being structured to follow a prescribed methodology for identifying a level of compliance with at least some of the test requirements ([0078-0088]).

As per Claim 15, executing the security test scheme comprises transmitting a questionnaire from the host computer system to the merchant entity with the security compliance authority server, the questionnaire including queries whose truthful response identifies a level of compliance with at least some of the test requirements ([0078-0088]).

As per Claim 16, determining which test requirements of the security test scheme to use in assessing the security risk for the merchant entity is dependent on a characteristic of the merchant entity ([0087-0091]).

As per Claim 17, the characteristic comprises a shared-network transaction volume processed by the merchant entity over the shared network ([0088-0090]).

As per Claim 18, further comprising generating a report at the host computer system summarizing a level of compliance by the merchant entity with the set of determined test requirements as evaluated from executing the security test scheme ([0072-0091]).

As per Claim 19, the merchant entity comprises an Internet merchant ([0025-0029]).

As per Claim 20, the merchant entity comprises an Internet merchant gateway ([0025-0029]).

As per Claim 22, the instructions for executing the security test scheme comprise instructions for performing a remote scan of a network site maintained by the merchant entity on the shared network in support of shared-network commercial transactions ([0072-0091]).

As per Claim 23, the instructions for executing the security test scheme comprise instructions for scheduling an on-site audit at the merchant entity ([0072-0091]).

As per Claim 24, the instructions for executing the security test scheme comprise instructions for transmitting a questionnaire to the merchant entity ([0072-0091]).

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to SYED ZIA whose telephone number is (571)272-3798. The

examiner can normally be reached on 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


sz
August 12, 2009
/Syed   Zia/
Primary Examiner, Art Unit 2431